

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-7272 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Agha Faisal.

Muhammad Vaqas KhanPetitioner

Versus

The Registrar,

Pakistan Medical & Dental Council & others.....Respondents

Date of hearing 06.09.2019

Mr. Aziz-ur-Rehman Akhund advocate for the petitioner.

Mr. Muhammad Arif advocate for the PMDC a/w M. Anwar Alam, Officer Incharge, PMDC, Karachi.

Mr. Afnan Saeed-uz-Zaman Siddiqui advocate for the respondent No. 2 & 3 a/w Mr. Ghulam Mujtaba Sahito advocate.

Mr. Jawad Dero, Addl. A.G.

Mr. Hussain Bhora, Assistant Attorney General.

Muhammad Ali Mazhar, J: The petitioner has approached this court for the directions against the respondent No. 1 (PMDC) to register the petitioner and allot him membership. Further directions have been sought against the respondent No. 2 & 3 (Baqai Dental College) to complete the requirements of the respondent No.1 in order to enable the petitioner to receive the requisite registration / membership.

The case of the petitioner is that he was admitted in the BDS program in 2008-2009 session and he was passed out in the year 2014. The grievance of the petitioner is that his name was not intimated to the PMDC at the relevant time for

which he is facing problems as PMDC is not allowing him recognition/registration

2. Learned counsel for the Baqai Dental College pointed out that it is not per se a case of over admission as a total of 50 seats were allotted in the BDS program and on 01.04.2013 a list was communicated to the PMDC for 50 students. Learned counsel pointed out page 69 (Annexure R-3) of the comments submitted by the Baqai Dental College, which is a letter dated 02.08.2016 communicated by Director Finance, Baqai Medical University to the Principal of Baqai Dental College, in which it was disclosed that one student Ayesha Bint-e-Abubakar took admission in the year 2009 but she had withdrawn her admission from this program and requested to refund the deposited fee. Learned counsel for the Baqai Dental College submitted that in lieu of Ayesha Bint-e-Abubakar's admission, the name of the present petitioner was intimated to the Registrar, PMDC vide letter dated 23.01.2014. He further pointed out Annexure E-1 at page No. 29, which is a registration form sent to the PMDC along with fee challan and affidavit of the petitioner. He submitted that again on 26.05.2016 the same letter was written to the PMDC but no action has been taken so far.

3. Learned counsel for the PMDC pointed out the minutes of 142nd meeting held on 12.03.2016 in which the Council unanimously decided to register graduating over admitted students of private sector institutes till to date subject to submission of affidavit by concerned Chairman of Governing Body/Principal/Dean of Institute and Vice Chancellor of

degree awarding university that from session 2016-2017, no admission shall be made beyond allotted annual admission to institutes by PMDC and failure to comply shall warrant disciplinary proceedings against institutes/persons as provisioned vide sections 22 and 22-B of PMDC Ordinance, 1962. Furthermore 100% tuition fee would be charged for each student, to be paid by concerned institute to PMDC, as penalty if any over admitted student graduates or intends to be registered with PMDC. According to learned counsel for the PMDC, this is a case of an over admitted student.

4. While learned counsel for the Baqai Dental College submits that in 2013/4 the name of the petitioner was intimated on time but this is also emerging from the record that petitioner was admitted in 2008-2009 session and he has passed out in January, 2014.

One more decision of the PMDC is available at page No. 51 of the court's file which was communicated by PMDC to Dean of Baqai Dental College on 26.03.2014 in which a decision of Executive Committee of PMDC in the meeting held on 07.03.2014 was communicated according to which the graduates who have passed out till date (04th February 2014) shall be registered upon provision of affidavit from governing body/policy body/Secretary Health/Chief Minister/Controlling Authority/Vice Chancellor /Owner of the college that they will not admit the students in excess of seat allocation by PMDC, their graduate should be registered and in case of non-compliance, recognition of the college shall be suspended. It was further decided that admitted students

shall be registered as per detail submitted by the colleges. A penalty of Rs. 50,000/- per over admitted student not 200,000/- which was earlier decided. Upon payment of the penalty i.e. Rs. 50,000/- per over admitted student by the institution and provision of affidavit from governing body/policy body/Secretary Health/Chief Minister/Controlling Authority/Vice Chancellor that they will not admit the students in excess of seat allocation by PMDC, these over admitted student will be registered.

5. It is categorically admitted by the learned counsel for the respondents that the petitioner has duly completed his BDS degree and that nothing further is required to be done by him in such regard. The issue that remains is the petitioner's registration with PMDC, which remains pending due to the PMDC's stance that the Baqai Dental College overadmitted students for the specified period and did not remedy the situation in the manner prescribed by the PMDC.

At present there are two decisions, one was passed on 07.03.2014 by PMDC and another decision was taken in the 142nd meeting which is reproduced in the comments of the respondent No.1. It is apparent that in 2014 over admitted students could have been registered subject to payment of Rs.50,000/- penalty with provision of affidavit. Whereas in 142nd meeting convened on 12.03.2016 a decision was taken to deposit 100% fee from session 2016-2017. Admittedly, the petitioner passed out in the year 2014 and his batch was 2008-2009, therefore, the niceties of the decision of PMDC taken on 07.03.2014 will apply.

6. It is manifest that the respondent No. 2 and 3 did not intimate the PMDC at the relevant time, being 2008-9 and by their own assertion it was in 2013 that they first communicated to PMDC that since one student had left, therefore, in lieu thereof the petitioner was admitted.

Learned counsel for the respondent No. 2 has submitted that the said respondents shall deposit the penalty amount with PMDC, in addition to filing of the requisite affidavit, in order to facilitate the registration of the petitioner with the PMDC.

7. As a result of above discussion, the respondent Nos. 2 and 3 are directed to deposit penalty of Rs. 50,000/- along with affidavit of Vice Chancellor/Dean to the PMDC within seven working days, thereafter, the PMDC shall process the registration of the petitioner therewith. The penalty amount will not be recovered from the petitioner by the respondent No. 2 and 3. The petition is disposed of in terms herein.

JUDGE

JUDGE